

INVITATION TO BID



Department Of Executive Services
Finance And Business Operations Division
Procurement And Contract Services Section
206-684-1681 Tty Relay: 711

Advertised Date: September 22, 2005

ITB Title: **Emergency Generator Maintenance**
ITB Number: **05-032 MM**
Due Date: October 11, 2005 2:00 P.M.
Buyer: Michael McKinley, michael.mckinley@metrokc.gov,
206-684-2047

This Contract will be funded in part by the Federal Transit Administration (FTA). Neither FTA nor the Federal Government are party to any sub-agreement nor to any solicitation or Invitation to Bid.

PRE-BID CONFERENCE
None

Sealed Bids are hereby solicited and will **ONLY** be received by:
King County Procurement Services Section
Exchange Building, 8th Floor
821 Second Avenue
Seattle, WA 98104-1598
Office Hours: 8:00 a.m. - 5:00 p.m.
Monday - Friday

Bidders must complete and sign the form below (Type or Print)

Company Name

Address

City / State / Postal Code

Authorized Representative / Title

Signature

Phone

Fax

Company Contact / Title

Email

Phone

Fax

Prompt Payment Discount Terms: ____ %- ____ Days, Net ____

This Invitation to Bid will be provided in alternative formats such as Braille, large print, audiocassette or computer disk for individuals with disabilities upon request.

CONTRACT

THIS CONTRACT, made this ____ Day of ____, 2004 by and between King County, Washington, (hereinafter "County") and _____ (hereinafter "Contractor").

WITNESSETH:

WHEREAS, the County has caused Contract documents for:

Contract No: _____ **Contract Title:** Emergency Generator Maintenance

to be prepared for certain Work as described therein; and

WHEREAS, the Contractor has assured the County that it has the specialized expertise and experience necessary to properly Provide the goods and Services in a timely manner and that its Bid includes all of the functions and features required for the goods and Services; and

WHEREAS, the County has accepted the Contractor's offer to provide the goods and Services in accordance with the Contract's terms, Scope of Work and Bid documents;

WHEREAS, by executing this Contract, the Contractor represents that the waiver of the Contractor's immunity under industrial insurance, Title 51 RCW, as set forth in the Contract documents was mutually negotiated by the parties;

NOW THEREFORE, in consideration of the mutual covenants and agreements of the parties herein contained and to be performed, the Contractor hereby agrees to supply the goods and Services at the price and on the terms and conditions herein contained, and to assume and perform all of the covenants and conditions herein required of the Contractor, and the County agrees to pay the Contractor the Contract price Provided herein for the supply of the goods and Services and the performance of the covenants set forth herein.

THE FURTHER TERMS, CONDITIONS AND COVENANTS of the Contract are set forth in the following exhibit parts each of which is attached hereto and by this reference made a part hereof in the following order of precedence; **[1]** Contract Amendments; **[2]** the Contract Document which includes: Cover (Page 1), Exhibit A – Bid Pricing, Exhibit B – Registration, Exhibit E – King County Metro Transit Generator Equipment and Locations, Exhibit F - Minimum Inspection/Testing Requirements, Exhibit G – Seattle Fire Department Confidence Testing Emergency Generator, Definition of Words and Terms, Standard Contractual Terms and Conditions, Specific Contractual Terms and Conditions, Insurance Requirements, Federal Transit Administration (FTA) Requirements, Scope of Work, Attachments C) Equal Benefit Worksheet and Declaration Form, D) Personnel Inventory Report, E) Affidavit and Certificate of Compliance, N) 504/ADA Assurance of Compliance, O) Contractor's Insurance Forms; and **[3]** ITB Addenda

COMPANY NAME: _____

ACCEPTED BY:

KING COUNTY APPROVED BY:

Authorized signature

Authorized Signature

Name and Title (Print or Type)

Name and Title (Print or Type)

DATE ACCEPTED: _____

DATE APPROVED: _____



EXHIBIT A – BID PRICING

ITB NO: 05-032 MM

TITLE: Emergency Generator Maintenance

NAME OF BIDDER:

We acknowledge that **Addenda numbered** _____ **to** _____ have been delivered to us and have been examined as part of the Contract documents.

We acknowledge that attaching our terms or modifying the ITB terms may result in our bid being rejected.

Provide Emergency Generator Maintenance in accordance with the specifications in ITB 05-032 MM. The low bidder is defined as that bidder, meeting specifications, that offers the lowest total bid price as determined as being in the best interests of King County for items 1-4.

Item#	Qty	Description	Unit Price	Extended Price
1		Price to conduct quarterly and annual inspections on 18 emergency generators in accordance, with Exhibit F, Section A and Section C. Include travel time, labor, report preparation, etc., but not services listed in items 2 through 4 below. See Exhibit E for location and description of each unit The unit price shall be the price for inspecting one generator set for four quarterly inspections.		
1A.	3	15-20 KW	\$	\$
1B	1	21-30 KW	\$	\$
1C	1	31-60 KW	\$	\$
1D	7	61-150 KW	\$	\$
1E	3	151-250	\$	\$
1F	3	251-400 KW	\$	\$
2		Price for annual loadbank test, to be conducted as part of the last quarterly inspection of the year on 18 generator sets in accordance with Exhibit F, section B. Unit price shall be the price of performing one loadbank testing on one generator set.	\$	\$
2A	3	15-20 KW	\$	\$
2B	1	21-30 KW	\$	\$
2C	1	31-60 KW	\$	\$
2D	7	61-150 KW	\$	\$
2E	3	151-250 KW	\$	\$
2F	3	251-400 KW	\$	\$

3	18	<p>Price for oil and coolant spectrochemical analysis to be conducted on each generator as part of the quarterly inspections.</p> <p>Please specify laboratory _____</p> <p>Oil analysis (ea) at \$_____</p> <p>Plus Coolant analysis (ea) at \$ _____ will equal the unit price.</p>	\$	\$
4		<p>Labor rate for emergency maintenance and repair of generators in addition to normal quarterly/annual inspections. The price should assume approximately 30 hours during normal working hours and 10 hours of weekend labor annually.</p> <p>Labor rate, prevailing wage 8:30 a.m. – 4:30 p.m., Monday – Friday. Per hour _____ x 30 hours.</p> <p>Labor rate, prevailing wage 4:30 p.m.. – 8:30 a.m., Monday – Friday, all day Saturday, Sunday Per hour _____ x 10 Hours</p>	\$ \$	\$ \$
		Total Bid Price	\$	\$



EXHIBIT B – REGISTRATION

Internal Revenue Service (IRS) Reporting Requirements:

Check one:

- ☐ Corporation ☐ Partnership ☐ Sole Proprietor
☐ Other (please specify) _____

Identify:

Dun and Bradstreet Number:

*(Required for all federally
funded procurements)*

State of Incorporation: _____

Provide one:

Federal Tax Number: _____ Social Security Number: _____

What is the official name registered with the IRS for this number? _____

Identify:

UBI Number: _____ Business License Number: _____

Prompt payment discount offered:

Percentage: _____ Days: _____ Standard payment is net 30 days. Evaluation Will be at the discounted prices if the time for the discount is not less than 20 days.

Bidder Identification:

- ☐ Check if firm submitting Bid is a DBE certified by Washington State Office of Minority and Women's Business Enterprises.
- ☐ Check here if the firm submitting this bid is a King County certified Small Economically Disadvantaged Business (SEDB).

Exhibit E

King County Emergency Generator Equipment and Locations

Bases	Location	Generator Make and Model	Diesel Make and Model	Generator Serial Number	Diesel Serial Number	KW Rating	Site Contact Person
Atlantic Base	1555 Airport Way South (Maint Bldg.)	DMT 431 KL2008AA310W	Cummins 6CT83J	WC3683885	4448759	125 KW	Shop 684-2717
Atlantic Base	1555 Airport Way South (Fuel/Wash Bldg.)	Commins E020371351	Cummins 6CTAB.3-FT	DGFA-5558477	4621196	125 KW	Shop 684-2717
Bellevue Base	1795 124 th Ave NE Bellevue	ComDec 31700811	John Deere 6414T	BA18212DJ	610591	100KW	Shop 684-2559
Convention Place (CPS)	Bus Entrance (Below Bus Ramp)	CAT SR4	Cat 3406B	6BA03177	2WB06470	300 KW	Don Brewer 684-6726
International District (IDS) **	Tunnel Entrance (Room 18)	CAT SR4	CAT 3406B	5EA05558	85204898	200 KW	Don Brewer 684-6726
East Base	1975 124 th Ave. NE Bellevue (Electric Room)	AC Delco E7055L1	Detroit Diesel 1063-7000	114-F-76	6A0331331	125 KW	Shop 684-2511
North Base Bus Parking Garage	N.165 th & I-5 North (Underground Garage)	Onan 200DEBD35971E	Cummins NT855-G4	K890280233	30322190	181 KW	Shop 684-2929
North Base	N. 165 th and I-5 North, (Emergency Control Center)	Olympian D25P15	CM50330	E82398/001	V121737F	25 KW	Shop 684-2929
Ryerson Base	1220 4 th Ave. S. (Fuel Building), Seattle	Lima 3169-0815	Detroit Diesel 80637405	AC92853SGL	6VF100768	250 KW	Shop 684-2634
South Base	12100 E. Marginal Way (Fuel Wash Bldg.)	Kato 75SX9E	Waukesha-Scania F475DSU/DS8R40	76472-2	62454	75 KW	Shop 684-2287

Exhibit E - (Cont.)

King County Emergency Generator Equipment and Locations

Bases	Location	Generator Make and Model	Diesel Make and Model	Generator Serial Number	Diesel Serial Number	KW Rating	Site Contact Person
Redmond Van Pool	18655 NE Union Hill Road, Redmond	Kohler 20RZ	Ford Natural Gas Engine LRG-4251-6005-A	0703579	93611-1-12-00	16 KW	Steve Gossett 684-2258
Portables		Katolight 433RDL4019	TAD1232GEP	WA519633-0799	WA-519633-59302	350 KW	Archie Alexander 263-6580
		CAT SR4B	3406	8FR01379	4ZR02499	350 KW	Archie Alexander 263-6580
Eastgate Parking Garage	14200 Eastgate Way Bellevue	Kohler 80	John Deere 6081	773207	PE4045T308049	80 KW	Archie Alexander 263-4611
Employee Parking Garage	1501 6 th Ave. S.	Kohler Power System 150	John Deere	2008583	PE6068H391315	150 KW	Archie Alexander 263-4611
Tiger Mountain	Mount Baker Snoqualmie Forrest #400 Road Latitude 47.3017North Longitude 121-5816 West	Dayton 4W166C	Briggs 303776	1017137	9005301	5 KW	Walt Miller 263-5247
Exchange Building	821 2 nd Ave. (Basement)	Taiyo Model T74573		GE18891		52 KW	Walt Miller 263-5247
Bank Of America Tower	701 4 th Ave. 76 th Floor	Onan Model 12DJCL18832D		J900355803		12 KW	Walt Miller 263-5247

**This unit may not be available for service during the closure of the Bus Tunnel

Exhibit F

Minimum Inspection/Testing Requirements

A. Quarterly Inspection

1.	Walk-Around Inspection:	Check engine, generator, radiator, guards, fittings, louvers, intake, exhausts and overall system for debris, loose or broken parts and corrosion. Make note of hour meter reading.
2.	Belts:	Visually inspect for worn, broken or loose belts (alternator, fan, drive, etc.)
3.	Cooling System:	Check for proper coolant level and "top-off" if required. Check for signs of leakage. Test antifreeze freeze point and cooling system conditioner (with litmus paper). "Top off" conditioner if required. Inspect hoses and belts. Take coolant sample for analysis.
4.	Jacket Water Heater:	Check for clean, secure electrical connections, coolant leaks and proper operation of heater. Notify if any correction is necessary.
5.	Air Cleaner:	Inspect indicator if so equipped. Inspect element for dirt, debris or other conditions, which could inhibit airflow.
6.	Engine Lubrication System:	Check the oil level and "top-off" if required. Inspect for leaks. Inspect crankcase breather system and lube oil pan heater. Take oil sample for analysis.
7.	Governor/Speed Control:	Inspect linkage and maintain oil level (if required). Lubricate linkage as required. Inspect stop solenoid if so equipped.
8.	Fuel System:	Inspect for leaks and drain water separator (if required). Check fuel level in tanks (if accessible) and compare with gauges. Notify if supply is insufficient. Inspect line-up of all valves and/or automatic fuel transfer system.
9.	Batteries:	Check specific gravity in each cell with hydrometer, maintain electrolyte level, clean and tighten terminals and connections as necessary. Perform load test. Check and note months left on battery warranty.
10.	Gauges:	Check condition of all gauges. Notify if repair is necessary.
11.	Battery Chargers:	Check for proper operation. Notify if repair is necessary.
12.	Engine Exhaust System:	Inspect for leaks and rusted silencer and/or components. Inspect insulation and guards. Inspect condensate trap. Clean spark box if equipped.
13.	Transfer Switch:	Inspect all connections for tightness and chaffing. Check operation of all timing relay systems.
14.	Generator and Control Panel:	Visual inspection-check for loose, broken or damaged wiring or components. Lubricate generator bearing if required. Inspect brushes for proper tension and commutator/slip rings for wear if so equipped.

15.	Engine Operation:	<p>Start engine and complete the following checks:</p> <ol style="list-style-type: none"> Oil Pressure: Check for proper manufacturer's specified operating oil pressure. Record readings. Fuel Pressure: Check for proper manufacturer's specified operating fuel pressure. Record readings. Frequency and Voltage: Check readings. Radiator Louvers: Check for proper operation. (Lubricate?) Leaks and Noises: Check for leaks and/or unusual noises. Stop Engine: Check for proper cool down cycle timing. Automatic Switches: Check that all switches are in proper position for automatic start. Fuel Supply Pumps: Inspect for proper operation. Check for leakage. Battery Charger: Record charging amperage reading. Safety Shutdown and Alarm: Test all safety shutdowns and alarms for proper operation, including any remote annunciation if so equipped. Instrumentation: Inspect all instruments and gauges for proper operation. Load Test: Load test generator simulating a power failure (when site supervisor will allow a load transfer to the generator.) Note time to transfer.
16.	Departure Inspection:	<ul style="list-style-type: none"> • Ensure all switches in the automatic position read for a power failure. • Generator circuit breaker in proper position. • Fuel valves in proper position. • Block heater, battery charger, etc. in "on" position. • Secure doors, panels, etc. • Check out with site representative.

B. Loadbank Tests

Carry out loadbank tests once annually in compliance with the manufacturer's established guidelines for each unit. Unless otherwise specified by the manufacturer's guidelines, each unit shall be operated at 90 percent of rated load.

As a minimum, each generator shall be run under load for a period of two (2) hours, one quarter of which shall be at the maximum load above.

The contractor shall provide a loadbank rated at 480 volts, 3phase, 4 wire, and test each generator under resistive load. King County will provide a water source and drain at each location for water-Cooled units.

Note: Loadbank testing may have to be conducted outside of normal day shift working hours.

C. Seattle Fire Department Confidence Testing

Perform and document confidence testing as required by the Seattle Fire Department as a part of the final quarterly inspection for each year (forms included as Exhibit G). This requirement only applies to emergency generators located within the immediate Seattle area.



Exhibit G
Seattle Fire Department
Confidence Testing Emergency Generator

Address: _____

Occupied As: _____

Building Owner: _____

Address: _____ City State: _____ Zip: _____

Date of Inspection: _____

Type of Inspection: Annual: _____ Acceptance: _____

Generator Manufacturer: _____

Engine Brand: _____

RPM: _____ DVA: _____ Hour meter reading: _____

1. Starts on power failure: Yes: _____ No: _____ (Trip main disconnect for the emergency panel).

2. Volts: _____ Amps: _____ Hertz: _____ (full load)

3. Is generator run light on? Yes: _____ No: _____

4. Is the maintenance record posted? Yes: _____ No: _____

5. Who does maintenance? _____

6. Adequate fuel supply? (2-hour minimum) Yes: _____ No: _____

7. Do transfer switches operate correctly? Yes: _____ No: _____

8. Is any non-emergency equipment connected to the generator? Yes: _____ No: _____

9. Does all required fire and life safety equipment operate on generator? Yes: _____ No: _____

10. Does connected load exceed generator capacity? Yes: _____ No: _____

11. Acceptance tests required copy of manufacturer's certification.

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DEFINITION OF WORDS AND TERMS

Words and terms shall be given their ordinary and usual meanings. Where used in the Contract documents, the following words and terms shall have the meanings indicated. The meanings shall be applicable to the singular, plural, masculine, feminine and neuter of the words and terms.

Acceptance or Accepted: Written documentation of the County's determination that the Contractor's Work has been completed in accordance with the Contract.

Addendum/Addenda: Written additions, deletions, clarification, interpretations, modifications or corrections to the solicitation documents issued by the County during the Solicitation period and prior to contract award.

Administrative Change: Documentation provided by County to Contractor, which reflects internal King County procedures not affecting the Contract terms or Scope of Work.

Bidder: Individual, association, partnership, firm, company, corporation or a combination thereof, including joint ventures, submitting a bid to perform the Work.

Buyer: Individual designated by the County to conduct the Contract solicitation process, draft and negotiate contracts, resolve contractual issues and support the Project Manager during Contract performance.

Change Documentation: A written document agreed upon by Project Managers, which if it creates a material change to the Contract term or Scope of Work shall be executed as a Contract Amendment.

Contract Amendment: A written change to the Contract modifying, deleting or adding to the terms or scope of work, signed by both parties, with or without notice to the sureties.

Contract or Contract Documents: The writings and drawings embodying the legally binding obligations between the County and the Contractor for completion of the Work under the Contract as set forth on Page 2 of this document.

Contractor: The individual, association, partnership, firm, company, corporation, or combination thereof, including joint ventures, contracting with the County for the performance of Services or Work under the Contract.

Cost Analysis: The review, evaluation and verification of cost data and the evaluation of the specific elements of costs and profit. Cost analysis is the application of judgment utilizing criteria to project from the data to the estimated costs in order to form an opinion on the degree to which proposed costs represent what the Contract should cost, assuming reasonable economy and efficiency.

Day: Calendar Day.

Documentation: Technical publications relating to the use of the Work to be Provided by Contractor under this Contract, such as reference, user, installation, systems administration and technical guides, delivered by the Contractor to the County.

Person: Includes individuals, associations, firms, companies, corporations, partnerships, and joint ventures.

Price Analysis: The process of examining and evaluating a price without evaluating its separate cost elements and proposed profit.

Provide: Furnish without additional charge.

RCW: The Revised Code of Washington.

Scope of Work or Statement of Work (SOW): A section of the Contract consisting of written descriptions of Services to be performed, or the goods to be provided or the technical requirements to be fulfilled under this Contract contained within Scope of Work Section.

Services: The furnishing of labor, time or effort by a Contractor, but not involving the delivery of any specific manufactured goods.

Subcontractor: The individual, association, partnership, firm, company, corporation, or joint venture entering into an agreement with the Contractor to perform any portion of the Work covered by this Contract.

Work: Everything to be provided and done for the fulfillment of the Contract and Shall include all Goods and Services specified under this Contract, including Contract Amendments and settlements.

SECTION 1 - INSTRUCTIONS TO BIDDERS

1-1 Introduction

The purpose of this Invitation for Bid is to establish a contract to provide Emergency Generator Maintenance, on an as-need basis. Any quantities listed herein are for bidding purposes only and represent King County's estimated annual requirements. The County will be neither obligated nor restricted to the quantities or locations indicated. The bidder shall also include all printed information available for this service. See Section 7 for the Statement of Work.

1-2 Purpose of Bid

This Invitation to Bid Will result in a Contract for indefinite quantities. By signing this Contract, King County does not guarantee that the Contractor Will receive any orders for the goods or services. In addition, King County is not giving the Contractor the exclusive right and legal obligation to fill all of the County's needs for the goods and services described in this Contract. King County reserves the right to Contract with any other entity for the goods or services described herein.

1-3 Bid Submission

Sealed bids shall contain all required attachments and information, be sealed and submitted to the County (hereinafter "County"), Procurement and Contract Services Section, Mailstop EXC-ES-0871, Eighth Floor, Exchange Building, 821 Second Avenue, Seattle, Washington 98104-1598 no later than 2 p.m. Seattle time on .October 11, 2005.

The Bidder accepts all risks of late delivery of mailed bids or of misdelivery regardless of fault. Bids properly and timely submitted Will be publicly opened.

Bids shall only be accepted from Contractors and joint ventures able to complete the Contract Work. Subcontractors and joint Bidders are not allowed to submit stand alone ITBs.

If a document holder chooses not to submit a bid, the document holder is requested to advise the Buyer by email if they desire to remain listed for the subject of this ITB and stating the reason they could not submit a bid at this time.

Note: This ITB is available on the Web at <http://www.metrokc.gov/procurement> and by choosing the "RFPs, RFQs, ITBs" menu tab, then click the "New" menu tab, then click on "Goods & Services", and look for ITB 05-032 MM. Persons who copy the document from the Internet shall inform the Buyer, Michael_McKinley, that they have received the document. If they fail to inform the Buyer, they shall not be notified of Addenda as issued.

1-4 Cancellation of ITB or Postponement of Bid Opening

The County reserves the right to cancel the ITB at any time or change the date and time for submitting bids by announcing same prior to the date and time established for bid submittal.

1-5 ITB Signature

Each ITB submission shall include an Invitation to Bid cover page signed by an authorized representative of the Bidder.

1-6 Addenda

Each bid shall include acknowledgment of receipt and review of all "**Addenda**" issued during the bid process in Exhibit A – Bid Pricing.

At any time, if the County changes, revises, deletes, clarifies, increases, or otherwise modifies the ITB, the County shall issue a written Addendum to the ITB.

1-7 Questions and Interpretation of the ITB

No oral interpretations as to the meaning of the ITB shall be made to any Bidder. Questions, requests for interpretation, clarification, additions or deletions to the technical or contractual terms in this ITB shall be e-mailed to the Buyer at the County's Procurement Services Division at the location indicated in Subsection 1-8 at least ten (10) Days before the date established for submitting bids. Bidders shall not rely upon any oral statements or conversations, with county employees at the pre-bid conference.

Any interpretation deemed necessary by the County shall be in the form of an Addendum to the ITB and when issued shall be delivered as promptly as is practicable to all parties to whom the ITB has been issued. All Addenda shall become part of the ITB and any subsequently awarded Contract. Any changes to the ITB shall follow the Addenda process in Subsection 1-6.

1-8 Inquiries

Inquiries concerning the procurement process shall be directed to Michael McKinley at e-mail address: michael.mckinley@metrokc.gov or at phone number (206) 684-2047 or FAX number (206) 684-1470 or in writing to the address on the front of this document.

COMMUNICATIONS CONCERNING THIS BID, WITH OTHER THAN THE LISTED BUYER MAY CAUSE THE BIDDER TO BE DISQUALIFIED.

1-9 Alterations to Documents

Any addition, limitation or provision made with or attached to the Bid may render it non-responsive and/or irregular and be cause for its rejection. Alteration by erasure or interlineations must be explained or noted over the signature of the Bidder. No oral, telegraphic, Internet, telephonic or facsimile bids or modifications Will be considered.

1-10 Examination of Bid and Contract Documents

The submission of a bid shall constitute an acknowledgment upon which the County may rely that the Bidder has thoroughly examined and is familiar with the ITB, including any work site identified in the ITB, and has reviewed and inspected all applicable statutes, regulations, ordinances and resolutions addressing or relating to the goods and Services to be Provided hereunder.

The failure or neglect of a Bidder to receive or examine such documents, work sites, statutes, regulations, ordinances or resolutions shall in no way relieve the Bidder from any obligations with respect to it's bid or to any Contract awarded pursuant to this ITB. No claim for additional compensation shall be allowed which is based upon a lack of knowledge or misunderstanding of this ITB, work sites, statutes, regulations, ordinances or resolutions.

1-11 Modification of Bid or Withdrawal of Bid Prior to Bid Due Date

At any time before the time and date set for submittal of bids, a Bidder may request to withdraw or modify its bid. Such a request shall be in writing signed by an authorized representative of Bidder as identified on the cover of the ITB. All bid modifications shall be made in writing, executed and submitted in the same form and manner as the original bid.

1-12 Cost of Bid

The County is not liable for any costs incurred by Bidder in the preparation of bids submitted in response to this ITB.

1-13 Bid Withdrawal

Except for claims of error granted by the County, no Bidder may withdraw a bid after the date and time established for submitting bids, or before the award and execution of a Contract pursuant to this ITB,

unless the award is delayed for a period exceeding the period for bid effectiveness. The County reserves the right to request a Bidder or Bidders to grant an extension of such effective period.

Requests to withdraw a bid due to error must be submitted in writing along with supporting evidence for such claim including cost breakdown sheets. Requests must be delivered to the County within forty-eight hours after the opening of Bids. The County reserves the right to require the submittal of other bid records or information, as the County may deem necessary to evaluate the request. Any review by the County of a bid and/or any review of such a claim of error, including supporting evidence, creates no duty or liability on the County to discover any other Bid error or mistake, and the sole liability for any Bid error or mistake rests with the Bidder.

1-14 Bid Requirements

The bid Will contain the completed:

[Cover Page](#)

[Contract](#)

[Exhibit A](#) - Bid Pricing

[Exhibit B](#) - Registration

The above completed pages and all required additional documents Shall be placed in a sealed envelope with the enclosed sticker filled out and attached to the outside of the envelope.

1-15 Forms Required Before Contract Signing

The Bidder shall submit within five (5) Business Days of receipt of written request from the County the following documents and insurance and any applicable bonds, sworn statements, and other conditions precedent to formation of the Contract.

Failure by the Bidder to submit required documents shall result in rejection of the bid.

[Attachment C](#) - Equal Benefit Worksheet and Declaration Form
http://www.metrokc.gov/procurement/documents/U_042_EB_Worksheet_Declaration.doc

[Attachment D](#) - Personnel Inventory Report – Complete, sign and submit.
http://www.metrokc.gov/procurement/documents/IBIS_Attachments/ATTACHMENTD_Personnel_Inventory.doc

[Attachment E](#) - Affidavit and Certificate of Compliance Regarding Equal Employment Opportunity – Complete, sign and submit.
http://www.metrokc.gov/procurement/documents/IBIS_Attachments/ATTACHMENTE_CertificateOfCompliance.doc

[Attachment N](#) - 504/ADA Assurance of Compliance – Complete and submit.
http://www.metrokc.gov/procurement/documents/U_027_504_ADA_Compliance.doc

[Certificate of Insurance and Endorsements](#) – Have Insurance Agent e-mail or Fax to Buyer evidence of insurance from insurer(s) satisfactory to the County certifying to the coverage of insurance set forth in this ITB.

Please contact the King County Procurement & Contracts Services Section at (206) 684-1681, or the buyer listed in this document to obtain a copy of these forms and/or have questions regarding their completion. Copies of the forms can also be viewed/downloaded by clicking on the hyperlinks above or visiting <http://www.metrokc.gov/procurement/resources/forms.aspx>. Collusion

By signing this bid, the Bidder declares that they have not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the work included in this ITB.

If the County determines that collusion has occurred among Bidders, none of the Bids from the participants in such collusion shall be considered. The County's determination shall be final.

1-16 Bid Price, Taxes and Effective Date

- A. The Bid price shall include everything necessary for the prosecution and completion of the Contract including but not limited to furnishing all Work including: materials, equipment, supplies, tools, plant and other facilities and all management, supervision, labor and service, except as may be Provided otherwise in this ITB.
- B. Bid Prices shall include all freight charges, FOB to the designated delivery points.
- C. Taxes: Sales/use taxes and Federal excise taxes shall not be included in the Bid price. The County shall pay any Washington State sales/use taxes applicable to the Contract price or tender an appropriate amount to the Contractor for payment to Washington State. The County is exempt from Federal excise taxes. All other government taxes, duties, fees, licenses, permits, royalties, assessments and charges shall be included in the bid price.
- D. In the event of a discrepancy between the unit price and the extended amount for a bid item, the unit price will govern.
- E. The bid shall remain in effect for 90 Days after the bid close date.

1-17 Protest Procedures

- A. Form of Protest:

In order to be considered, a Protest shall be in writing, addressed to the Manager of the King County Procurement and Contract Services Section of the Department of Executive Services, and include:

 - 1. The name, address, and phone number of the Bidder protesting, or the authorized representative of the Bidder;
 - 2. The ITB Number and Title under which the protest is submitted;
 - 3. A detailed description of the specific grounds for protest and any supporting documentation. It is the responsibility of the protesting Bidder to supplement its protest with any subsequently discovered documents prior to the Manager's decision; and
 - 4. The specific ruling or relief requested.
- B. Who May Protest.
 - 1. Protests prior to bid due date based on Scope of Work or other terms in the ITB document -- any prospective Bidder.
 - 2. Protests following bid due date -- any Bidder submitting a bid on time.
- C. Time to Protest.

Protests based on Scope of Work or other terms in the ITB document shall be received by the County no later than ten (10) Days prior to the date established for submittal of Bids. The County shall receive protests based on other circumstances within five (5) Days after the protesting Bidder knows or should have known of the facts and circumstances upon which the Protest is based. In no event shall a Protest be considered if all Bids are rejected or after award of the Contract.

D. Determination of Protest.

Upon receipt of a timely written Protest, the Procurement Manager shall investigate the Protest and shall respond in writing to the Protest prior to the award of Contract. Except as Provided below, the decision of the Procurement Manager shall be final.

E. Reconsideration of Manager's Decision.

A financially interested Bidder or Contractor may request that a Manager's adverse decision be reviewed by the Director, of the King County Finance and Business Operations Division ("Director") on a reconsideration basis only. The only justifications for reconsideration are (1) new data, relevant to the underlying grounds for protest and unavailable at the time of the Protest to the Manager; or (2) the Manager made an Error of law or regulation. The following procedures shall be followed for a reconsideration of the Manager's decision:

1. **Form of Request for Reconsideration.** In order to be considered, a Request for Reconsideration shall be filed with the Director in writing and include:
 - a. Name, address, and telephone number of the Person protesting or their authorized representative;
 - b. A copy of the written decision of the Manager; and
 - c. Justification for reconsideration by the Director, including all pertinent facts and law on which the Bidder is relying.
2. **Time for filing Request for Reconsideration.** The financially interested Bidder shall file the Request for Reconsideration no later than five (5) Days of receiving the Procurement Manager's decision.
3. **Review of Manager's Decision.** Upon receipt of a Request for Reconsideration, the Director or his/her designee shall review 1) the information submitted to and reviewed by the Manager and 2) the decision of the Manager, and shall thereafter issue a final determination regarding the Request for Reconsideration. No other information shall be reviewed unless the basis for the request for reconsideration is new data.

F. Failure to Comply

Failure to comply with the procedures set forth herein may render a Protest untimely or inadequate and may result in rejection thereof by the County.

1-18 Supported Employment Program

The County encourages the creation of supported employment programs for developmentally and/or severely disabled individuals. The County itself has such a program and is actively seeking to do business with those Contractors and Consultants that share this employment approach. If your firm has such a program, or intends to develop such a program during the life of this Contract, please submit Documentation supporting this claim with your bid. If you have questions, or need additional information, please contact the Community and Human Services Division, Developmental Disabilities Division, 206-296-5268.

1-19 Compliance With Section 504 Of The Rehabilitation Act Of 1973

For all contracts providing consulting, maintenance, training or other services, the Bidder shall complete a Disability Self-Evaluation Questionnaire, Attachment N. The 504/ADA Disability Assurance of Compliance Will cover all programs and services offered (including any services not subject to this Contract) for compliance with Section 504 of the Rehabilitation Act of 1973, as amended ("504"), and the Americans with Disabilities Act of 1990 ("ADA"). The Bidder shall complete a 504/ADA Disability Assurance of Compliance within ten days after receiving written notice of selection. The Bidder shall

retain a copy of the completed 504/ADA and submit to the Buyer the original final two signed pages titled "504/ADA Disability Assurance of Compliance", which Will be attached to the Contract.

SECTION 2 - BID EVALUATION & CONTRACT AWARD

2-1 Evaluation of Bids

Bids Will be evaluated by the County to determine which bid, if any, should be accepted in the best interest of the County. When Exhibit D, "King County Contracting Opportunities Program", is incorporated in the ITB, the determination of lowest responsive, responsible bidder Will include the application of the five (5) percent incentive factor for Small Economically Disadvantaged Businesses (SEDB).

A. Responsiveness

The County Will consider all the material submitted by the Bidder to determine whether the Bidder's offering is in compliance with the terms and conditions set forth in this ITB.

B. Responsibility

1. The County shall consider all the material submitted by the Bidder, and other evidence it may obtain otherwise, to determine whether the Bidder is capable of and has a history of successfully completing contracts of this type. This may include requiring the Bidder to Provide references from customers who have been Provided the same or equivalent Goods or Services. References shall include the names and addresses of the parties to whom such goods or Services were Provided and the name and phone number of contact Persons with such parties.
2. The following elements shall be given consideration by the County in determining whether a Bidder is responsible:
 - a. The ability, capacity and skill of the Bidder to perform the Contract or Provide the service required;
 - b. The character, integrity, reputation, judgment and efficiency of the Bidder;
 - c. Whether the Bidder has the financial resources and experience to perform the Contract properly and within the times specified;
 - d. The quality and timeliness of performance by the Bidder on previous contracts with the County and with other third parties, including, but, not limited to, the relative costs, burdens, time and effort necessarily expended by the County and such governments and agencies in securing satisfactory performance and resolving claims;
 - e. The previous and existing compliance by the Bidder with laws relating to public contracts or Services, including, but not limited to, Disadvantaged Business Enterprise (DBE) and equal employment opportunity requirements;
 - f. The history of the Bidder in filing claims and litigation on prior projects involving the County or third parties; and
 - g. Such other information having a bearing on the decision to award the Contract.
3. Financial Resources

Submit proof of adequate financial resources, which would be available to the Bidder for the prosecution, and completion of the Work as required. Refusal to Provide such information when requested shall cause the bid to be rejected.

C. Financial Reporting

The Bidder Shall Provide a current copy of its Dun and Bradstreet report if requested by the County.

D. King County Contracting Opportunities Program

1. The King County Contracting Opportunities Program is a public contracting assistance program that is being implemented on a one (1) year pilot basis. The purpose of the

Program is to maximize the participation of Small Economically Disadvantaged Businesses through the use of a five percent (5%) incentive factor in the award of King County contracts for the purchase of goods and services.

2. A "Small Economically Disadvantaged Business: (SEDB) means that a business and the person or persons who own and control it are in a financial condition which puts the business at a substantial disadvantage in attempting to compete for public contracts. The relevant financial condition for eligibility under the Program is based on a dollar ceiling for standard business classification that is set at fifty percent (50%) of the Federal Small Business Administration (SBA) and Owner's Personal Net Worth less than \$750K dollars.
3. A "Certified Firm" means a business that has applied for participation in King County's Contracting Opportunities Program, and has been certified as an SEDB by the King County Business Development and Contract Compliance (BDCC) office. Information about becoming a Certified Firm, as well as a list of Certified Firms, may be obtained by contracting the BDCC office at (206) 205-0700.

2-2 Rejection of Bids

- A. The County reserves the right to reject any bid for any reason including, but not limited to, the following:
 1. Any bid which: 1) contains any omission, erasure or irregularity; 2) is incomplete, obscure, irregular or lacking necessary detail and specificity; 3) has any qualification, addition, limitation or provision attached to the bid; 4) omits a price where pricing is required; 5) has unbalanced pricing in the opinion of the County, 5) is not approved as being compliant with the requirements for equal employment opportunity or Domestic Partner Benefits;
 2. Any bid from Bidders who: in the sole judgment of the County) lack the qualifications or responsibility necessary to perform the Work; 2) fails or neglects to complete and submit any qualifications information within the time specified by the County, 3) is not registered or licensed as may be required by the laws of the state of Washington or local government agencies;
- B. In consideration for the County's review and evaluation of its bid, the Bidder waives and releases any claims against the County arising from any rejection of any or all bids, including any claim for costs incurred by Bidders in the preparation and presentation of bids submitted in response to this ITB. In addition, Bidders waive the costs of providing additional information requested or cost of modifications made to its internal structure, systems or organizations.
- C. The County reserves the right to waive informalities and irregularities in bids.
- D. The County Shall find non-responsive and reject any bid which does not comply with the DBE requirements under this ITB, if applicable.

2-3 Procedures When Only One Bid is Received

If the County receives a single responsive, responsible bid, the County Shall have the right, in its sole discretion, to extend the bid acceptance period and may conduct a price or cost analysis on such bid. The Bidder Shall promptly Provide all cost or pricing data, documentation and explanation requested by the County to assist in such analysis. By conducting such analysis, the County shall not be obligated to accept the single bid; the County reserves the right to reject such bid or any portion thereof.

2-4 Insurance And Other Bid Requirements

The Bidder to whom the County awards a Contract pursuant to this ITB shall file with the County evidence of insurance from insurer(s) satisfactory to the County certifying to the coverages of insurance set forth in this ITB. In addition any applicable bonds, sworn statements, and other conditions

precedent to formation of the Contract shall be submitted within ten (10) Days of receipt of a written request from the County.

Failure by the Bidder to submit satisfactory evidence of insurance and other required condition precedent documents shall result in rejection of the bid.

2-5 Public Disclosure of Bids

This procurement is subject to the Washington Public Disclosure Act, RCW 42.17.250 et seq. Bids submitted under this ITB shall be considered public documents unless the documents are exempt under the public disclosure laws. After the selection process has been concluded and a contract has been signed by both parties bids shall be available for inspection and copying by the public

If a Bidder considers any portion of its bid to be protected under the law, the Bidder shall clearly identify each such portion with words such as "CONFIDENTIAL," "PROPRIETARY" or "BUSINESS SECRET." If the County determines that the material is not exempt from public disclosure law, the County shall notify the Bidder of the request and allow the Bidder fifteen (15) Days to take whatever action it deems necessary to protect its interests. If the Bidder does not take such action within said period, the County shall release the portions of the bid deemed subject to disclosure. By submitting a bid, the Bidder assents to the procedure outlined in this subsection and shall have no claim against the County on account of actions taken under such procedure.

2-6 Contract Award

Contract award, if any, shall be made by the County to the low, responsive, responsible Bidder. The County shall have no obligations until a Contract is signed between the Bidder and the County. The County reserves the right to award one or more contracts as it determines to be in its best interest.

SECTION 3 - STANDARD CONTRACTUAL TERMS & CONDITIONS

3-1 Administration

This Contract is between the County and the Contractor who shall be responsible for providing the Work described herein. The County is not party to defining the division of Work between the Contractor and its Subcontractors, if any, and the Scope of Work has not been written with this intent. The Contractor represents that it has or shall obtain all personnel, materials and equipment required to perform Work hereunder.

The Contractor's performance under this Contract may be monitored and reviewed by a Project Manager appointed by the County. Reports and data required to be Provided by the Contractor shall be delivered to the Project Manager. Questions by the Contractor regarding interpretation of the terms, provisions and requirements of this Contract shall be addressed to the Buyer or Project Manager for response.

3-2 Contract Changes

No oral order or conduct by the County shall constitute a Contract change. Both parties shall agree to contract changes in writing.

If any Contract change causes an increase or decrease in the cost of, or the time required for performance of any part of the Work under this Contract, an equitable adjustment in the Contract price, the project schedule, or both shall be made and the Contract and all related purchase orders(s) modified and agreed to in writing by both parties. Every contract change may require a Cost or Price Analysis to determine the reasonableness of the proposed adjustments to Contract price or schedule. Contract changes do not require notice to sureties by County.

3-3 Cost or Price Analysis

Cost or Price Analysis may be required by the County for the evaluation of contract changes, terminations, revisions to contract requirements or other circumstances as determined by the County.

3-4 Termination for Convenience/Default/Non-Appropriation

A. Termination for Convenience

The County for its convenience may terminate this Contract, in whole or in part, at any time by written notice sent certified mail, return receipt requested, to the Contractor. After receipt of a Notice of Termination ("Notice"), and except as directed by the County, the Contractor shall immediately stop Work as directed in the Notice, and comply with all other requirements in the Notice. The Contractor shall be paid its costs, including necessary and reasonable Contract close-out costs and profit on that portion of the Work satisfactorily performed up to the date of termination as specified in the notice. The Contractor shall promptly submit its request for the termination payment, together with detailed supporting documentation. If the Contractor has any property in its possession belonging to the County, the Contractor shall account for the same and dispose of it in the manner the County directs. All termination payment requests may be subject to Cost or Price Analysis to determine reasonableness and compliance with the Contract, applicable laws and regulations.

B. Termination for Default

If the Contractor does not deliver Work in accordance with the Contract, or the Contractor fails to perform in the manner called for in the Contract, or if the Contractor fails to comply with any material provisions of the Contract, the County may terminate this Contract, in whole or in part, for default as follows:

1. A Notice to Cure shall be served on the Contractor by certified mail (return receipt requested) or delivery service capable of providing a receipt. The Contractor shall have ten

(10) Days to cure the default or provide the County with a detailed written plan, which indicates the time and methods needed to bring the Work into compliance and cure the default.

2. If the Contractor has not cured the default or the plan to cure the default is not acceptable to the County, the County may terminate the Contract Termination shall occur by serving a Notice of Termination by certified mail (return receipt requested) or delivery service capable of providing a receipt on the Contractor setting forth the manner in which the Contractor is in default and the effective date of termination;
3. The Contractor shall only be paid for Work delivered and Accepted, or Work performed in accordance with the manner of performance set forth in the Contract less any damages to the County caused by or arising from such default. All termination payment requests are subject to Cost or Price Analysis to verify compliance with the Contract, applicable laws and regulations.
4. The termination of this Contract shall in no way relieve the Contractor from any of its obligations under this Contract nor limit the rights and remedies of the County hereunder in any manner.

C. Termination for Non-Appropriation

If expected or actual funding is withdrawn, reduced or limited in any way prior to the termination date set forth in this Contract or in any amendment hereto, the County may, upon written notice to the Contractor, terminate this Contract in whole or in part.

In accordance with King County Code 4.04.040B.6, payment shall not exceed the appropriation for the year in which termination is effected. If the Contract is terminated for non-appropriation:

1. The County shall be liable only for payment in accordance with the terms of this Contract for Services rendered prior to the effective date of termination; and,
2. The Contractor shall be released from any obligation under this contract or a related Purchase Order to Provide further Work pursuant to the Contract as are affected by the termination.

Funding under this Contract beyond the current appropriation year is conditional upon the appropriation by the County Council of sufficient funds to support the activities described in this Contract. Should such an appropriation not be approved, the Contract shall terminate at the close of the current appropriation year. The appropriation year ends on December 31 of each year.

3-5 Force Majeure

The term "force majeure" shall include, without limitation by the following enumeration: acts of nature, acts of civil or military authorities, fire, accidents, shutdowns for purpose of emergency repairs, industrial, civil or public disturbances, causing the inability to perform the requirements of this Contract. If any party is rendered unable, wholly or in part, by a force majeure event or any other cause not within such party's control, to perform or comply with any obligation or condition of this Contract, upon giving notice and reasonably full particulars to the other party, such obligation or condition shall be suspended only for the time and to the extent commercially practicable to restore normal operations. In the event the Contractor ceases to be excused pursuant to this provision, then the County shall be entitled to exercise any remedies otherwise provided for in this Contract, including Termination for Default.

3-6 Taxes, Licenses, and Certificate Requirements

This Contract and any of the Work Provided hereunder is contingent and expressly conditioned upon the ability of the Contractor to provide the specified goods or Services consistent with applicable federal, state or local laws and regulations. If, for any reason, the Contractor's required licenses or

certificates are terminated, suspended, revoked or in any manner modified from their status at the time this Contract becomes effective, the Contractor shall notify the County immediately of such condition in writing.

The Contractor and subcontractor(s) shall maintain and be liable for all taxes (except sales/use taxes), fees, licenses permits and costs as may be required by applicable federal, state or local laws and regulations as may be required to provide the Work under this Contract.

3-7 Assignment

Neither party shall assign any interest, obligation or benefit under or in this Contract or transfer any interest in the same, whether by assignment or novation, without prior written consent of the other party. If assignment is approved, this Contract shall be binding upon and inure to the benefit of the successors of the assigning party. This provision shall not prevent Contractor from pledging any proceeds from this Contract as security to a lender so long as King County Policy Fin10-1 (AP), paragraph 6.1.3 is followed. An assignment shall be accepted by either party upon the posting of all required bonds, securities and the like by the assignee, and the written agreement by assignee to assume and be responsible for the obligations and liabilities of the Contract, known and unknown, and applicable law.

3-8 Indemnification and Hold Harmless

- A. In providing services under this Contract, the Contractor is an independent contractor, and neither the Contractor nor its officers, agents or employees are employees of the County for any purpose. The Contractor shall be responsible for all federal and/or state tax, industrial insurance and Social Security liability that may result from the performance of and compensation for these services and shall make no claim of career service or civil service rights which may accrue to a County employee under state or local law.

The County assumes no responsibility for the payment of any compensation, wages, benefits, or taxes by or on behalf of the Contractor, its employees and/or others by reason of this Contract. The Contractor shall protect, indemnify, defend and save harmless the County and its officers, agents and employees from and against any and all claims, costs, and/or losses whatsoever occurring or resulting from (1) the Contractor's failure to pay any such compensation, wages, benefits or taxes; and/or (2) the supplying to the Contractor work, services, materials, and/or supplies by Contractor employees or other suppliers in connection with or in support of the performance of this Contract.

- B. The Contractor further agrees that it is financially responsible for and will repay the County all indicated amounts following an audit exception which occurs due to the negligence, intentional act and/or failure for any reason to comply with the terms of this Contract by the Contractor, its officers, employees, agents, and/or representatives. This duty to repay shall not be diminished or extinguished by the prior termination of the Contract pursuant to the Duration of Contract, or the Termination section.

- C. The Contractor shall protect, defend, indemnify, and save harmless the County, [and the State of Washington or US Government (when any funds for this Contract are provided by them)], their officers, employees, and agents from any and all costs, fees (including attorney fees), claims, actions, lawsuits, judgments, awards of damages or liability of any kind, arising out of or in any way resulting from the negligent acts or omissions of the Contractor, its officers, employees, subcontractors of any tier and/or agents. The Contractor agrees that its obligations under this paragraph extend to any claim, demand, and/or cause of action brought by or on behalf of any of its employees, subcontractors of any tier or agents.

In addition to injuries to persons and damage to property, the term "claims," for purposes of this paragraph C, shall include, but not be limited to, assertions that the use or transfer of any software, book, document, report, film, tape, or sound reproduction or material of any kind,

delivered hereunder, constitutes an infringement of any copyright, patent, trademark, trade name, and/or otherwise results in unfair trade practice.

- D. For purposes of paragraphs A and C above, the Contractor, by mutual negotiation, hereby waives, as respects the County only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW.
- E. In the event the County incurs attorney fees and/or costs in the defense of claims within the scope of paragraphs A and C above, such attorney fees and costs shall be recoverable from the Contractor. In addition King County shall be entitled to recover from the Contractor its attorney fees, and costs incurred to enforce the provisions of this section.
- F. The indemnification, protection, defense and save harmless obligations contained herein shall survive the expiration, abandonment or termination of this Contract.
- G. Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Contract.

3-9 Applicable Law and Forum

Except as hereinafter specifically provided, this Contract shall be governed by and construed according to the laws of the State of Washington, including, but not limited to, the Uniform Commercial Code, Title 62A RCW. Any claim or suit concerning this Contract may only be filed in either the King County Superior Court or U.S. District for the Western District of Washington, in Seattle.

3-10 Conflicts of Interest and Non-Competitive Practices

A. Conflict of Interest

By entering into this Contract to perform Work, the Contractor represents that it has no direct or indirect pecuniary or proprietary interest, and that it shall not acquire any interest that conflicts in any manner or degree with the Work required to be performed under this Contract. The Contractor shall not employ any Person or agent having any conflict of interest. In the event that the Contractor or its agents, employees or representatives hereafter acquires such a conflict of interest, it shall immediately disclose such conflict to the County. The County shall require that the Contractor take immediate action to eliminate the conflict up to and including termination for default.

B. Contingent Fees and Gratuities

By entering into this Contract to perform Work, the Contractor represents that:

1. No Persons except as designated by Contractor shall be employed or retained to solicit or secure this Contract with an agreement or understanding that a commission, percentage, brokerage, or contingent fee would be paid; and
2. No gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any of its agents, employees or representatives, to any official, member or employee of the County or other governmental agency with a view toward securing this Contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performance of this Contract.

3-11 Disputes, Claims and Appeals

The Contractor shall address questions or claims regarding the Contract in writing to the Buyer and Project Manager, within ten (10) Days of the date in which the Contractor knows or should know of the question or claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. No claim shall be allowed for any costs incurred more than ten (10) Days before the Contractor gives written notice, as required in this section. The Buyer and Project Manager shall ordinarily respond to the Contractor in writing with a decision, but absent such written response, the

question or claim shall be deemed denied upon the tenth (10th) Day following receipt by the Buyer and Project Manager.

In the event the Contractor disagrees with the determination of the Buyer and Project Manager, the Contractor shall, within five (5) Days of the date of such determination, appeal the determination in writing to the Procurement and Contract Services Section Manager. Such written notice of appeal shall include all information necessary to substantiate the appeal. The Procurement and Contract Services Section Manager shall review the appeal and make a determination in writing, which shall be final. Appeal to the Procurement and Contract Services Section Manager shall be a condition precedent alternative dispute resolution or litigation.

Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract and in accordance with the direction of the Buyer or Project Manager. Failure to comply precisely with the time deadlines under this subsection as to any claim shall operate as a waiver and release of that claim and an acknowledgment of prejudice to the County.

3-12 Mediation and Arbitration

Nothing in this subsection precludes any party from seeking relief from King County Superior Court or the U.S. District Court for the Western District of Washington, in Seattle. If a dispute arises out of or relates to this Contract, or the breach thereof, and if said dispute cannot be settled through direct discussions, the parties agree to first endeavor to settle the dispute in an amicable manner by mediation. Thereafter, any unresolved controversy or claim arising out of or relating to this Contract, or breach thereof, may be resolved by arbitration, and judgment upon the award rendered by the arbitrator may be entered in either King County Superior Court or the U.S. District Court for the Western District of Washington, in Seattle.

3-13 Retention of Records, Audit Access and Proof of Compliance with Contract

A. Retention of Records

The Contractor and its subcontractors shall maintain books, records and documents of its performance under this Contract in accordance with generally accepted accounting principles. The Contractor shall retain for six (6) years after the date of final payment under the Contract all financial information, data and records for all Work.

B. Audit Access

1. Federal, state or County auditors shall have access to Contractor's and its Subcontractors' records for the purpose of inspection, Cost or Price Analysis, audit or other reasonable purposes related to this Contract. Federal, state or County auditors shall have access to records and be able to copy such records during the Contractor's normal business hours. The Contractor shall Provide proper facilities for such access, inspection and copying.
2. Audits may be conducted during or after the Contract period for purposes of evaluating claims by or payments to the Contractor and for any other reason deemed appropriate and necessary by the County. Audits shall be conducted in accordance with generally accepted auditing principles and/or federal, state or County audit procedures, laws or regulations. The Contractor shall fully cooperate with the auditor(s).
3. If an audit is commenced more than sixty (60) Days after the date of final payment for Contract Work, the County shall give reasonable notice to the Contractor of the date on which the audit shall begin.

C. Proof of Compliance with Contract

The Contractor shall, upon request, Provide the County with satisfactory documentation of the Contractor's compliance with the Contract.

In addition, the Contractor shall permit the County, and if federally funded, the FTA and the Comptroller General of the United States, or a duly authorized representative, to inspect all Work, materials, payrolls and other data and records involving the Contract.

3-14 Other Public Agency Orders

Other federal, state, county and local entities may utilize the terms and conditions established by this Contract. The County does not accept any responsibility or involvement in the purchase orders or contracts issued by other public agencies.

3-15 Recycled Products Policy

The County promotes the purchase and utilization of recycled material and products where available. Recycled material means material and byproducts, which have been recovered or diverted from solid waste disposal for the purpose of recycling. It does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process. In the event of similar pricing, availability and other factors affecting the solicitation, preference may be given to products containing recycled material.

Ref: KCC 10.14

3-16 Conflicts of Interest - Current and Former Employers

The County seeks to eliminate and avoid actual or perceived conflicts of interest and unethical conduct by current and former County employees in transactions with the County. Consistent with this policy, no current or former County employee may contract with, influence, advocate, advise, or consult with a third party about a County transaction, or assist with the preparation of Proposals submitted to the County while employed by the County or within one (1) year after leaving the County's employment, if he/she participated in determining the Work to be done or process to be followed while a County employee.

All Bidders, vendors or Contractors who anticipate contracting with the County shall identify at the time of offer, such current or former County employees involved in preparation of bids or the anticipated performance of the Work if awarded the Contract. Failure to identify former County employees involved in this transaction may result in the County's denying or terminating this Contract. In addition, after award, the Contractor is responsible for notifying the County's Project Manager of current or former County employees who may become involved in the Contract any time during the term of the Contract

Ref: KCC 3.04.015C; 3.04.035B; 3.04.035D; 3.04.035E; 3.04035H1; 3.04.035H2.

3-17 Nondiscrimination and Equal Employment Opportunity

A. Nondiscrimination in Employment and Provision of Services.

During the performance of this Contract, neither the Contractor nor any party subcontracting under the authority of this Contract shall discriminate nor tolerate harassment on the basis of race, color, sex, religion, nationality, creed, marital status, sexual orientation, age, or the presence of any sensory, mental, or physical disability in the employment or application for employment or in the administration or delivery of services or any other benefits under this Contract. King County Code Chapter 12.16 is incorporated herein by reference, and such requirements shall apply to this Contract.

B. Nondiscrimination in Subcontracting Practices.

During the solicitation, award and term of this Contract, the Contractor shall not create barriers to open and fair opportunities to participate in County contracts or to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services. In considering offers from and doing business with subcontractors and suppliers, the Contractor shall not discriminate against any person on the basis of race, color, creed, religion, sex, age, nationality,

marital status, sexual orientation or the presence of any mental or physical disability in an otherwise qualified disabled person.

C. Compliance with Laws and Regulations.

The Contractor shall comply fully with all applicable federal, state, and local laws, ordinances, executive orders, and regulations that prohibit discrimination.

Unfair Employment Practices. King County Code Chapter 12.18 is incorporated by reference as if fully set forth herein and such requirements apply to this Contract.

D. Record-keeping Requirements and Site Visits.

The County may, at any time, visit the project site, Contractors' and Subcontractors' offices to review records related to the solicitation, utilization, and payment to subcontractors and suppliers in compliance with Executive Order 11246 as amended by Executive Order 11375. This provision includes compliance with any other requirements of this Section. The Contractor shall provide all reasonable assistance requested by King County during such visits. The Contractor shall maintain, for six (6) years after completion of all work under this Contract, the following:

1. Records, including written quotes, bids, estimates or proposals submitted to the Contractor by all businesses seeking to participate on this Contract, and any other information necessary to document the actual use of and payment to subcontractors and suppliers in this Contract.
2. The Contractor shall make the foregoing records available to King County for inspection and copying upon request. Any violation of the mandatory requirements of the provisions of this subsection shall be a material breach of contract, which may result in termination of this Contract or such other remedy as the County deems appropriate, including but not limited to damages or withholding payment.

E. Discrimination In Contracting

King County Code Chapter 12.17 is incorporated by reference as if fully set forth herein and such requirements apply to this Contract. During the performance of this Contract, neither Contractor nor any party subcontracting under the authority of this Contract shall discriminate or engage in unfair contracting practices prohibited by KCC 12.17.

3-18 Severability

Whenever possible, each provision of this Contract shall be interpreted to be effective and valid under applicable law. If any provision is found to be invalid, illegal or unenforceable, then such provision or portion thereof shall be modified to the extent necessary to render it legal, valid and enforceable and have the intent and economic effect as close as possible to the invalid, illegal and unenforceable provision.

3-19 Nonwaiver of Breach

No action or failure to act by the County shall constitute a waiver of any right or duty afforded to the County under the Contract; nor shall any such action or failure to act by the County constitute an approval of, or acquiescence in, any breach hereunder, except as may be specifically stated by the County in writing.

3-20 Non-Discrimination in Benefits to employees with Domestic Partners

King County's Equal Benefits (EB) Ordinance 14823 states that to be eligible for award of contracts at a cost of \$25,000.00 or more, firms must not discriminate in the provisions of employee benefits between employees with spouses, and employees with domestic partners. The successful Contractor, bidder or proposer shall be required to complete a Worksheet and Declaration form. Compliance with Ordinance 14823 is a mandatory condition for execution of a contract. The EB Compliance Forms, and Ordinance 14823 are available online at:

http://www.metrokc.gov/procurement/documents/U_042_EB_Worksheet_Declaration.doc

SECTION 4 - SPECIFIC CONTRACTUAL TERMS & CONDITIONS

4-1 Type of Contract

This ITB may result in the award of one or more Contracts. King County Will utilize these Contracts as indefinite quantities Contracts and issue standard purchase orders to the Contractor citing item number, description, deliver terms and Contract price. The standard purchase orders Will be the authorization for the Contractor to perform the service or deliver the goods as directed.

4-2 Contract Term

The term of this Contract shall be five (5) years in one (1) year increments, commencing on the effective date of the Contract and subject to the termination provisions at subsection 3-4 or as described in the Scope of Work. The maximum term for this Contract, consisting of the base period plus extensions, is five (5) years unless extended by written agreement signed by all parties.

4-3 Contract Value

The estimated annual value of this Contract is approximately \$16,000 per year. King County Will not be limited, restricted or bound by this dollar value, nor Shall the County be obligated to purchase any items contained in this Contract.

4-4 Payment Procedures

A. Invoices

The Contractor for Work Accepted by the County shall furnish invoices to:

King County Metro
Attn: Jim Boe
Mailstop: KSC-TR-0828
201 South Jackson Street
Seattle, WA 98104-3856

Important – When a purchase order is issued against this Contract that has the potential for multiple or partial deliveries, a separate invoice shall be generated for each completed delivery Accepted by the County. All invoices shall include the following information: purchase order number, requester's name and phone number, date of invoice, invoice number and invoice total. For each item in the Contract provide the: item number, quantity, description, contract price and when applicable provide the manufacture, list price and discounts. For Services identify from the bid, either milestone Acceptance or hourly rates, hours worked, total hours or related fees.

Failure To Comply With These Requirements Or To Provide An Invoice In Conformance With The Contract May Delay Payment.

B. Payments

Within thirty (30) Days after receipt of an invoice, the County shall pay the Contractor for accepted Work, upon acceptance of payment Contractor waives any claims for the Work covered by the Invoice.

If the Contractor is registered with the State of Washington it shall add all applicable State sales/use taxes to each invoice and upon receipt of the payment promptly remit appropriate amounts to Washington, or the County will make payment directly to the State.

C. Subcontractor Prompt Payment

The Contractor agrees to pay each Subcontractor under this Contract for satisfactory performance of its subcontract no later than ten (10) Days from the receipt of each payment the Contractor receives from the County.

4-5 Advance Payment Prohibited

No advance payment shall be made for the Work furnished by Contractor pursuant to this Contract.

4-6 Purchase Orders

Purchase orders shall be issued referencing this Contract number. Purchase order(s) shall define and authorize the Work by the Contractor based on the prices contained in the bid. The purchase orders issued by the County may reflect agreed to modification of Contract terms, funding or other matters subject to subsection 3-2, Contract Changes.

4-7 Pricing

Prices Shall remain firm for the duration of the initial Contract period. Reasonable price changes based on market conditions and price/cost analysis may be made after the initial Contract period. The Contractor Shall supply documentation satisfactory to King County such as documented changes to the Producers Price Index (PPI), the Consumer Price Index (CPI) or a manufacturer's published notification of price change(s). King County Will evaluate this information to determine if revising the pricing is considered fair and reasonable to the satisfaction of King County. Requests for any such change are to be made in writing to the Buyer in the Procurement Services Division office. Any agreed-to change Shall take effect at the time of the Contract extension and Shall remain in effect throughout the extension period. The parties hereto recognize that such changes could be increases or decreases in the prices; both parties are entitled to benefit from such price changes.

4-8 Shipping Charges

All prices shall include freight FOB to the designated delivery point. The County shall reject requests for additional compensation for freight charges.

4-9 Packing Slips

Each delivery to the County Shall have a packing slip enclosed that identifies the requester, Contract number, requisition number, King County part number, unit price and quantity of each part shipped. If the delivery is a partial shipment, indicate on the packing slip that it is not a complete shipment of that requisition and identify the items not shipped and Provide a projected completion date of the requisition.

If the delivery combines items from more than one requisition, separate packing slips must be included in the shipment for each requisition. A packing slip Will not serve as an invoice. A separate invoice must be sent to Accounts Payable.

4-10 Delivery Points

This Contract requires all goods and/or services and supervision necessary to furnish the goods and services as set forth herein to be made to any sites in King County to be determined at the sole discretion of King County.

4-11 Use Report

The Contractor Shall, if requested, submit to the Procurement Services Division Buyer a quarterly report of sales made to King County under this Contract.

The report, in a format acceptable to King County, Shall identify the customer for each item purchased, the item description, whether it's a Contract or non-Contract item, quantity, price and discount.

4-12 Warranty Provisions

A. No Waiver of Warranties and Contract Rights.

Conducting of tests and inspections, review of Scope of Work or plans, payment for a Work, or Acceptance or Final Acceptance of the Work by the County shall not constitute a waiver of any rights under this Contract or in law. The termination of this Contract shall in no way relieve the Contractor from its warranty/guarantee responsibility.

B. Warranty Term.

The Contractor warrants that the Work performed under this Contract shall be free from defects in material and workmanship, and shall conform with all requirements of this Contract, for a period of twelve (12) months from date of Final Acceptance of such Work by the County. Any Work corrected shall be subject to this subsection to the same extent as the Work initially Provided.

C. Warranty Applicable to Third Party Suppliers, Vendors, Distributors and Subcontractors.

The Contractor shall ensure that the warranty requirements of this Contract are enforceable through and against the Contractor's suppliers, vendors, distributors and Subcontractors. The Contractor is responsible for liability and expense caused by any inconsistencies or differences between the warranties extended to the County by the Contractor and those extended to the Contractor by its suppliers, vendors, distributors and Subcontractors. Such inconsistency or difference shall not excuse the Contractor's full compliance with its obligations under this Contract. The Contractor shall cooperate with the County in facilitating warranty related Work by such suppliers, vendors, distributors and Subcontractors.

4-13 Express Warranties for Services

Contractor warrants that the Services shall in all material respects conform to the requirements of this Contract.

Contractor warrants that qualified professional personnel with in-depth knowledge shall perform the Services in a timely and professional manner; and that the Services shall conform to the standards generally observed in the industry for similar Services.

Contractor warrants that the Services shall be in compliance with all applicable laws, rules and regulations.

4-14 Warranty Remedies

If at any time during the twelve (12) Month period immediately following Acceptance of any Work covered by this Contract, Contractor or the County discovers one or more material defects or errors in the Work or any other aspect in which the Work materially fails to meet the provisions of the warranty requirements herein Contractor shall, at its own expense and within thirty (30) Days of notification of the defect by the County, correct the defect, error or nonconformity.

Notice Required. The County shall give written notice of any defect to the Contractor. If the Contractor has not corrected defect with thirty (30) Days after receiving the written notice, the County, in its sole discretion, may correct the defect itself. In the case of an emergency where the County believes delay could cause serious injury, loss or damage, the County may waive the written notice and correct the defect. In either case, the County shall charge-back the cost for such warranty repair to the Contractor.

The Contractor is responsible for all costs of repair or replacement in order to restore the Work to the applicable Contract requirements or Scope of Work, including shipping charges, for Work found defective within the warranty period, regardless of who actually corrects the defect.

4-15 Independent Status of Contractor

In the performance of this Contract, the parties shall be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint ventures, or associates of one another. The parties intend that an independent contractor relationship shall be created by this Contract. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. Contractor shall not make any claim of right, privilege or benefit, which would accrue, to an employee under chapter 41.06 RCW or Title 51 RCW.

4-16 Nondisclosure of Data

Data provided by the County either before or after Contract award shall only be used for its intended purpose. Contractors and Subcontractors shall not utilize nor distribute the County data in any form without the express written approval of the County.

4-17 Non-Disclosure Obligation

While performing the Work under this Contract, the Contractor may encounter personal information, licensed technology, Software, Documentation, drawings, schematics, manuals, data and other materials described as "Confidential", "Proprietary" or "Business Secret". The Contractor shall not disclose or publish the information and material received or used in performance of this Contract. This obligation is perpetual. The Contract imposes no obligation upon the Contractor with respect to confidential information which the Contractor can establish that: a) was in the possession of, or was rightfully known by the Contractor without an obligation to maintain its confidentiality prior to receipt from the County or a third (3rd) party; b) is or becomes generally known to the public without violation of this Contract; c) is obtained by the Contractor in good faith from a third (3rd) party having the right to disclose it without an obligation of confidentiality; or, d) is independently developed by the Contractor without the participation of individuals who have had access to the County's or the third (3rd) party's confidential information. If the Contractor is required by law to disclose confidential information the Contractor shall notify the County of such requirement prior to disclosure.

4-18 Public Disclosure Requests

Contracts shall be considered public documents and, with exceptions Provided under public disclosure laws, shall be available for inspection and copying by the public.

If a Contractor considers any portion of the Work, including Software, data and related materials, delivered to the County to be protected under the law, the Contractor shall clearly identify each such item with words such as "CONFIDENTIAL," "PROPRIETARY" or "BUSINESS SECRET." If a request is made for disclosure of such item, the County shall determine whether the material should be made available under the law. If the material or parts thereof are determined by the County to be exempt from public disclosure, the County shall not release the exempted documents. If the material is not exempt from public disclosure law, the County shall notify the Contractor of the request and allow the Contractor ten (10) Days to take whatever action it deems necessary to protect its interests. If the Contractor fails or neglects to take such action within said period, the County shall release the item deemed subject to disclosure. By signing this Contract, the Contractor assents to the procedure outlined in this subsection and shall have no claim against the County on account of actions taken under such procedure.

4-19 Pricing of Spare Parts

The County shall have the right to conduct a cost or Price Analysis on specific spare parts if pricing appears to be in excess of standard industry pricing for similar parts. Any differences shall be subject to negotiations to the satisfaction of the County. The County is not required to purchase spare parts under this contract if it can purchase the same item(s) from another source under terms that are more advantageous to the County.

4-20 No Prototype Components

All hardware, Software and Work, shall be in production and be used by customers comparable to the County at the time of the Contract effective date. Test or prototype items shall be clearly identified as such. A sufficient inventory of the Work shall be available to meet delivery requirements.

4-21 Hazardous Chemical Communication

In order to comply with WAC 296-62-054, Hazard Communication, the Contractor shall prepare, a Material Safety Data Sheet (MSDS) for all products containing any toxic products that may be harmful to the end user. The MSDS Sheet is to accompany the toxic product(s) to the specified delivery sites.

In addition, the MSDS Shall be sent to BOTH of the following addresses:

Transit Safety

Attention: Mike Wines

Building A, Mail Stop: SAT-TR-0110

11911 East Marginal Way South

Seattle, WA 98168

Phone: (206) 684-2915

Facilities Maintenance South

Attention: Cathy Johnson

Environmental Compliance

Building C, Mail Stop: SFM-TR-0100

11911 East Marginal Way South

Seattle, WA 98168

Phone: (206) 684-2266

Include the following information in the MSDS:

Chemical Abstract Service (CAS) numbers for every chemical that is listed in the MSDS.

If the product is actually used diluted, the rate should be so stated in the MSDS and the hazards and corresponding Personal protection, etc. also be listed.

SARA Title 3 chemicals shall be listed with the percentage by weight of the total product.

A statement as to the intended use of the product.

4-22 Industrial and Hazardous Waste

The Contractor shall comply with all applicable local ordinances, state and federal statutes, and supporting rules and regulations governing the discharge of industrial waste to a public sewer, private sewer, or side sewer tributary to the metropolitan sewerage system.

Contractor shall handle and dispose of all hazardous wastes in compliance with all applicable local, state and federal laws and regulations, including the Resource Conservation and Recovery Act, the Washington Hazardous Waste Management Act, and applicable rules and regulations of the Environmental Protection Agency and the Department of Ecology governing the generation, storage, treatment, transportation or disposal of hazardous wastes.

4-23 Changed Requirements

New Federal, State and County laws, regulations, ordinances, policies and administrative practices may be established after the date this Contract is established and may apply to this Contract. To achieve compliance with changing requirements, the Contractor agrees to accept all changed requirements that apply to this Contract and require Subcontractors to comply with revised requirements as well. Changed requirements shall be implemented through subsection 3-2, Contract changes.

SECTION 5 - INSURANCE REQUIREMENTS

5-1 Evidence and Cancellation of Insurance

Prior to execution of the Contract, the Contractor shall file with the County evidence of insurance and endorsements from the insurer(s) certifying to the coverage of all insurance required herein. All evidence of insurance shall be certified by a properly authorized officer, agent, general agent or qualified representative of the insurer(s) and shall certify the name of the insured, the type and amount of insurance, the location and operations to which the insurance applies, the expiration date, and that the County received notice at least 45 Days prior to the effective date of any cancellation, lapse or material change in the policy.

The Contractor shall, upon demand of the County, deliver to the County all such policy of insurance, and all endorsements and riders, and the receipts for payment of premiums thereon.

Failure to Provide such insurance in a timeframe acceptable to the County shall enable the County to suspend or terminate the Contractor's Work hereunder in accordance with Contract provisions regarding "Termination for Convenience/ Default/Non-appropriation." Suspension or termination of this Contract shall not relieve the Contractor from its insurance obligations hereunder.

5-2 Insurance Requirements

- A. The Contractor shall obtain and maintain the minimum insurance set forth below.

By requiring such minimum insurance, the County shall not be deemed or construed to have assessed the risks that may be applicable to the Contractor under this Contract. The Contractor shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

Nothing contained within these insurance requirements shall be deemed to limit the scope, application and/or limits of the coverage afforded, which coverage shall apply to each insured to the full extent Provided by the terms and conditions of the policy(s). Nothing contained with this provision shall affect and/or alter the application of any other provision contained with this Contract.

For all coverages:

Each insurance policy shall be written on an "occurrence" form; excepting that insurance for professional liability, Errors and omissions when required, may be acceptable on a "claims made" form.

If coverage is approved and purchased on a "Claims made" basis, the contractor warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three (3) years from the date of completion of the Work which is the subject of this Contract.

- B. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. General Liability

Insurance Services Office form number (CG 00 01 Ed. 11-88) covering COMMERCIAL GENERAL LIABILITY.

2. Automobile Liability

Insurance Service form number (CA 00 01 Ed. 12-90) covering BUSINESS AUTO COVERAGE, symbol 1 "any auto"; or the combination of symbols 2, 8 and 9.

3. Workers' Compensation

Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, as well as any similar coverage required for this Work by applicable federal or "Other States" State Law.

4. Employers Liability or "Stop Gap":

The protection Provided by the Workers Compensation Policy Part 2 (Employers Liability) or, in states with monopolistic state funds, the protection Provided by the "Stop Gap" endorsement to the General Liability policy.

C. Minimum Limits of Insurance

The Contractor shall maintain limits no less than, for:

1. General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, Personal injury and property damage, and for those policies with aggregate limits, a \$2,000,000 aggregate limit.
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
3. Professional Liability, Errors and Omissions: \$1,000,000 per Claim and in Aggregate.
4. Workers' Compensation: Statutory requirements of the state of residency.
5. Employers Liability Stop Gap: \$1,000,000.

D. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions shall be declared to, and approved by, the County. The deductible and/or self-insured retention of the policies shall not limit or apply to the Contractor's liability to the County and shall be the sole responsibility of the Contractor.

E. Other Insurance Provisions

The insurance policies required in this Contract are to contain, or be endorsed to contain the following provisions:

1. Liability Policies:

- a. The County, its officers, officials, employees and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Contractor in connection with this Contract. Use the above exact language on the Endorsement Form.
- b. To the extent of the Contractor's negligence, the Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and agents. Any insurance and/or self-insurance maintained by the County, its officers, officials, employees or agents shall not contribute with the insurance or benefit the contractor in any way.
- c. The Contractor's insurance shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

F. Acceptability of Insurers

Unless otherwise approved by the County:

Insurance is to be placed with insurers with a Bests' rating of no less than A:VIII, or, if not rated with Bests', with minimum surpluses the equivalent of Bests' surplus size VIII.

If at any time one of the foregoing policies shall be or become unsatisfactory to the County, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to

the County, the Contractor shall, upon notice to that effect from the County, promptly obtain a new policy, and shall submit the same to the County, with the appropriate certificates and endorsements, for approval.

G. Subcontractors

The Contractor shall include all Subcontractors as insureds under its policies, or shall furnish separate certificates of insurance and policy endorsements for each Subcontractor. Insurance coverages provided by Subcontractors as evidence of compliance with the insurance requirements of this Contract shall be subject to all of the requirements stated herein.

H. Endorsements

Endorsement must be included with insurance form, i.e. standard industry forms: "2010 111" or "GC 76 80 10 00. **The County requires this Endorsement to complete the Contract.**

SECTION 6 - FEDERAL TRANSIT ADMINISTRATION (FTA) REQUIREMENTS

6-1 Applicability and Federal Grant Contract

This procurement is subject to a financial assistance Contract between the County and the U.S. Department of Transportation. The successful Contractor is required to comply with all terms and conditions prescribed in third party Contracts in the grant Contract between the U.S. Department of Transportation and the County.

New federal laws, regulations, policies and administrative practices may be established after the date this Contract is established and may apply to this Contract. To achieve compliance with changing federal requirements, the Contractor agrees to accept all changed requirements that apply to this Contract and require Subcontractors comply with revised requirements as well.

6-2 No Federal Government Obligations to Third Parties

The Contractor agrees that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of this Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and Shall not be subject to any obligations or liabilities to the Contractor or any other party (whether or not a party to this Contract) pertaining to any matter resulting from this Contract.

The Contractor agrees to include the above clause in each Subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause Shall not be modified, except to identify the subcontractor who Will be subject to its provisions.

6-3 Disadvantaged Business Enterprise (DBE) Participation

The DBE requirements of 49 CFR Part 26 apply to this Contract. These requirements are described in Section 1, Instructions to Bidders.

6-4 Equal Employment Opportunity

In connection with the execution of this Contract, the Contractor Shall not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The Contractor Shall take affirmative action to ensure that the hiring of applicants and treatment of employees during employment is conducted without regard to their race, color, creed, sex, disability, age, or national origin. Such action Shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Contractor further agrees to insert a similar provision in all Subcontracts, except Subcontracts for standard commercial supplies or raw materials.

The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting officer setting forth the provisions of this non-discrimination clause.

(Authorities: Executive Order 11246, as amended by Executive Order 11375; Title VII of the Civil Rights Act, as amended, 42 USC § 2000e; Federal transit laws at 49 USC § 5332; section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 USC § 623; section 102 of the Americans with Disabilities Act, as amended, 42 USC §§ 12101 et seq.; 29 CFR Part 1630; 41 CFR § 60-1.4).

6-5 Title VI Compliance

The Contractor Shall comply with and Shall ensure the compliance by all Subcontractors under this Contract with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 USC 2000d) and the regulations of the federal Department of Transportation, "Nondiscrimination in Federally-

Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act," 49 CFR Part 21, (hereinafter "Regulations") as they may be amended from time to time.

During the performance of this Contract, the Contractor, for itself, its assignees and successors-in-interest agrees as follows:

A. Nondiscrimination

The Contractor, with regard to the Work performed by it during the Contract, Shall not discriminate on the grounds of race, color, creed, sex, disability, age or national origin in the selection and retention of Subcontractors, including procurements of materials and leases of equipment. The Contractor Shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.

B. Solicitations for Subcontracts, Including Procurements of Materials and Equipment

In all solicitations either by competitive bidding or negotiation made by the Contractor for Work to be performed under a Subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier Shall be notified by the Contractor of the Contractor's obligations under this Contract and the regulations relative to nondiscrimination on the grounds of race, color, creed, sex, disability, age or national origin.

C. Information and Reports

The Contractor Shall Provide all information and reports required by the regulations or directives issued pursuant thereto and Shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the County or the Federal Transit Administration (FTA) to be pertinent to ascertain compliance with such regulations, orders and instructions. The Contractor Shall maintain all required records for a least three (3) years after the County makes final payment and all other pending matters are closed. Where any information is required and it is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor Shall so certify to the County or the Federal Transit Administration, as appropriate, and Shall set forth efforts made to obtain the information.

D. Sanctions for Noncompliance

In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, the County Shall impose such Contract sanctions as it or the FTA may determine to be appropriate, including, but not limited to:

Withholding of payments to the Contractor under the Contract until the Contractor complies, and/or, Cancellation, termination or suspension of the Contract, in whole or in part.

E. Incorporation of Provisions

The Contractor Shall include the provisions of paragraphs A through E of this section in every Subcontract, including procurements of materials and leases of equipment, unless exempt by the regulations or directives issued pursuant thereto. The Contractor Shall take such action with respect to any Subcontract or procurement as the County or the FTA may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that, in the event the Contractor becomes involved in or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the County to enter into such litigation to protect the interests of the County, and in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

6-6 Labor Provisions - Non-Construction Contracts

A. Overtime Requirements

No Contractor or subcontractor Contracting for any part of the Contract Work which may require or involve the employment of laborers or mechanics Shall require or permit any such laborer or mechanic in any Work week in which he or she is employed on such Work to Work in excess of forty (40) hours in such Work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half (1.5) times the basic rate of pay for all hours worked in excess of forty (40) hours in such Work week. (29 CFR § 5.5(b)(1)).

B. Violation: Liability for Unpaid Wages: Liquidated Damages

In the event of any violation of the clause set forth in paragraph A of this section, the Contractor and any subcontractor responsible therefore Shall be liable for the unpaid wages. In addition, such Contractor and subcontractor Shall be liable to the United States (in the case of Work done under Contract for the District of Columbia or a territory, to such district or to such territory) for liquidated damages. Such liquidated damages Shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of paragraph A of this section in the sum of ten (\$10) dollars for each calendar Day on which such individual was required or permitted to Work in excess of the standard Work week of forty (40) hours without payment of the overtime wages required by paragraph A of this section. (29 CFR § 5.5(b)(2)).

C. Withholding for Unpaid Wages and Liquidated Damages

The Department of Transportation or the County Shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of Work performed by the Contractor or subcontractor under any such Contract or any other federal Contract with the same prime Contractor, or any other federally-assisted Contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in paragraph B of this section. (29 CFR § 5.5(b)(3)).

D. Payrolls and Basic Records

The Contractor or subcontractor Shall maintain payrolls and basic payroll records during the course of the Work and Shall preserve them for a period of three (3) years from the completion of the Contract for all laborers and mechanics, including guards and watchmen, working on the Contract. Such records Shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made and actual wages paid. Further, the records to be maintained under this paragraph Shall be made available by the Contractor or subcontractor for inspection, copying or transcription by authorized representatives of the Department of Transportation and the Department of Labor, and the Contractor or subcontractor Will permit such representatives to interview employees during working hours on the job. (29 CFR § 5.5(c)).

E. Subcontracts

The Contractor or subcontractor Shall insert in any Subcontracts the clauses set forth in paragraphs A through E of this section and also a clause requiring the Subcontractors to include these clauses in any lower tier Subcontracts. The prime Contractor Shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs A through E of this section. (29 CFR § 5.5(b)(4)).

6-7 Audit and Inspection of Records

In the case of all negotiated Contracts and Contracts for construction, reconstruction or improvement of facilities and equipment, which were entered into under other than competitive bidding procedures, Contractor agrees that the County, the Comptroller General of the United States or any of their duly

authorized representatives, Shall, for the purpose of audit and examination be permitted to inspect all Work, materials, payrolls, and other data and records with regard to the project, and to audit the books, records and accounts with regard to the project. Further, Contractor agrees to maintain all required records for at least three (3) years after the County makes final payment and all other pending matters are closed.

6-8 FTA Protest Procedures

Bidders are hereby notified that if this Contract is funded in whole or in part by the Federal Department of Transportation, the Federal Transit Administration (FTA) may entertain a protest that alleges that the County failed to have or follow written protest procedures. Bidders must file a protest with the FTA not later than 5 working days after the County renders a final decision or 5 working days after the Bidder knows or has reason to know that the County has failed to render a final decision. The protesting party must notify the County if it has filed a protest with the FTA. After 5 days, the County Will confirm with FTA that FTA has not received a protest. Protests to the FTA must be filed in accordance with FTA Circular 4220.1D (as periodically updated).

The County Will not award a Contract for 5 working days following its decision on a bid protest or while a protest to the FTA is pending unless the County determines that: (1) the items to be procured are urgently required; (2) delivery of performance Will be unduly delayed by failure to make the award promptly; or (3) failure to make prompt award Will otherwise cause undue harm to the County or the Federal Government.

6-9 Access Requirements for Individuals with Disabilities

The County and Contractors are required to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 USC §§ 12101, et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794; and 49 USC § 5301(d), and the following regulations and any amendments thereto:

- U.S. Department of Transportation regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR Part 37;
- U.S. Department of Transportation regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities receiving or benefiting from Federal Financial Assistance," 49 CFR Part 27;
- U.S. Department of Transportation regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 49 CFR Part 38;
- U.S. Department of Justice (DOJ) regulations, "Nondiscrimination on the Basis of Disability in State of Local Government Services," 28 CFR Part 35;
- U.S. Department of Justice regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 CFR Part 36;
- U.S. General Services Administration regulations, "Accommodations for the Physically Handicapped," 41 CFR Subpart 101-19;
- U.S. Equal Employment Opportunity Commission (EEOC) "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630;
- U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 CFR Part 64, Subpart F; and
- FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 CFR Part 609.

6-10 Interest of Members or Delegates of Congress

Pursuant to 41 USC § 22, no member of or delegate to the Congress of the United States Shall be admitted to any share or part of this Contract or to any benefit arising there from.

6-11 Anti-Kickback

The County and Contractors are required to comply with the Anti-Kickback Act of 1986, 41 USC §§ 51 et seq. Under state and federal law, it is a violation for County employees, bidders, Contractors or Subcontractors to accept or offer any money or benefit as a reward for favorable treatment in connection with the award of a Contract or the purchase of goods or services.

"Kickback" as defined by Federal Acquisition Regulation (FAR) 52.203-7, and 41 USC § 52(2), means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind that is provided directly or indirectly to any prime Contractor, prime Contractor employee, subcontractor or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime Contract or in connection with a Subcontract relating to a prime Contract.

6-12 False or Fraudulent Statements or Claims

The Contractor acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the County in connection with this project, the County reserves the right to pursue the procedures and impose on the recipient the penalties of 18 USC § 1001, 31 USC §§ 3729 and 3801 et seq., and/or 49 USC § 5307(n)(1), as may be appropriate. The terms of Department of Transportation regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, are applicable to this project.

The Contractor agrees to include this clause in all Subcontracts awarded under this Contract.

6-13 Conservation

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency that are contained in the State Energy Conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 USC §§ 6321 et seq.

The Contractor agrees to include this clause in all Subcontracts awarded under this Contract.

6-14 Air Pollution

The Contractor and suppliers may be required to submit evidence to the Project Manager that the governing air pollution criteria Will be met. This evidence and related documents Will be retained by the manager for on-site examination by FTA.

6-15 Environmental Requirements

The Contractor agrees to comply with all applicable standards, orders or requirements as follows:

A. Environmental Protection

The Contractor agrees to comply with the applicable requirements of the National Environmental Policy Act of 1969, as amended, 42 USC §§ 4321, *et seq.*, consistent with Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," 42 USC § 4321 note. FTA statutory requirements on environmental matters at 49 USC § 5324(b); Council on Environmental Quality regulations on compliance with the National Environmental Policy Act of 1969, as amended, 42 USC § 4321 *et seq.* and 40 CFR Part 1500 *et seq.*; and joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," 23 CFR Part 771 and 49 CFR Part 622.

B. Air Quality

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 USC §§ 7401, et seq. The Contractor agrees to report each violation to the County and understands and agrees that the County Will, in turn, report each violation as required to assure notification to FTA and the appropriate U.S. Environmental Protection Agency (EPA) Regional Office.

The Contractor agrees to include this clause in each Subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

C. Clean Water

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC §§ 1251 et seq. The Contractor agrees to report each violation to the County and understands and agrees that the County Will, in turn, report each violation as required to assure notification to FTA and the appropriate Environmental Protection Agency (EPA) Regional Office.

The Contractor agrees to protect underground sources of drinking water consistent with the provisions of the Safe Drinking Water Act of 1974, as amended, 42 USC §§ 300h et seq. The Contractor agrees to include these requirements in each Subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

D. Mitigation of Adverse Environmental Effects

The Contractor agrees that if the Project should cause adverse environmental effects, the Contractor Will take all reasonable steps to minimize those effects in accordance with 49 USC § 5324(b), and all other applicable federal laws and regulations, specifically, the procedures of 23 CFR Part 771 and 49 CFR Part 622.

E. Energy Conservation

The Contractor agrees to comply with the mandatory energy efficiency standards and policies within the applicable state energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 USC §§ 6321, et seq.

6-16 Preference for Recycled Products

To the extent practicable and economically feasible, the Contractor agrees to Provide a competitive preference for products and services that conserve natural resources and protect the environment and are energy efficient. Examples of such products may include, but are not limited to, products described in the EPA Guidelines at 40 CFR Part 247, implementing section 6002 of the Resource Conservation and Recovery Act, as amended, 42 USC § 6962, and Executive Order 12873.

6-17 Incorporation of FTA Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by the U.S. Department of Transportation, whether or not expressly set forth in the preceding Contract provisions. All Contractual provisions required by the U.S. Department of Transportation, as set forth in FTA Circular 4220.1D, dated April 15, 1996, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms Shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor agrees not to perform any act, fail to perform any act, or refuse to comply with any County requests that would cause the County to be in violation of the FTA terms and conditions.

SECTION 7 - TECHNICAL SPECIFICATIONS (STATEMENT OF WORK)

7-1 General

The work to be performed under this contract includes inspection, testing, performance of preventive maintenance and reporting the condition of the emergency power generating equipment. Additionally, the Contractor shall perform emergency repair of this equipment as approved by the site supervisor.

7-2 Location

The current list of generators to be tested, inspected and maintained is located at various locations throughout King County as listed in Exhibit E. King County reserves the right to add or delete King County generator locations from this list, as required.

7-3 Applicable Standards and Certification

The contractor shall comply with all applicable codes and regulations in the course of inspections, tests, and preventative maintenance of the generator systems to include the following.

1. National Fire Protection Assoc. (NFPA) Standard 110
2. NFPA Standards 37 and 70B
3. National Electrical Code (NEC)
4. National Electrical Safety Code (NASI-C2-1977)
5. National Electrical Testing Association (NETA) – Maintenance Specification for Generator sets.

The most up-to-date version of the above standards are to be incorporated in this contract by reference. Additionally, the Contractor shall submit, as part of its bid, names of staff members who will be designated to work on this contract who have a valid, current certification form the local fire department to work on emergency generators.

7-4 Inspection, Testing, Maintenance, and Reporting

- A. The Contractor shall inspect, test and conduct preventive maintenance on the generator systems in accordance with the manufacturer's recommended procedure for maintenance of such equipment type and system.
- B. With the exception of Loadbank Testing, the scope of the contract is limited to non-electric components of the emergency generators (hereafter "units"). Equipment shall be given visual and mechanical inspections in accordance with Exhibit F.
- C. The Contractor shall provide all tools, materials and equipment needed to perform all tests and maintenance in accordance with this specification. All test equipment utilized shall be in current calibration. The contractor shall carryout all necessary adjustments as part of the preventative maintenance. Addition or replacement of parts or materials shall only be carried out by the Contractor if a damaging or dangerous condition exists requiring immediate additional or replacement of such parts or material, as approved by the site supervisor. Normally, King County Metro Transit staff will carry out needed repairs upon receipt of a detailed report from the Contractor indication unit condition.
- D. The Contractor shall provide King County with a documented test report (three copies) listing:
 1. Unit tested.
 2. Summary of discrepancies found.
 3. Maintenance inspection checklists.

4. Lube oil analysis report and recommendations.
5. Seattle Fire Department confidence test form for Seattle sites (last quarter of year only-see exhibit G)

Lube oil and coolant analysis shall be performed by a reputable laboratory capable of performing spectrochemical analysis of these fluids and providing maintenance recommendations based on that analysis.

Three copies of the report shall be sent to:

Archie Alexander
Power Distribution
King County Metro Transit
Mailstop PDS-TR-0100
2255 Fourth Avenue S.
Seattle, WA 98134

- E. The contractor shall obtain and pay for all licenses, permits and inspections required by laws, Ordinances and rules governing the work specified herein.

7-5 Equipment Preventative Maintenance.

- A. Maintenance Specifications.

Preventative maintenance shall be conducted in accordance with the Manufacturer's maintenance specifications (or as amended to suit King County Metro Transit specific needs). The contractor shall be responsible for securing their own copies of these documents. They are not available from or through King County Metro Transit.

- B. Corrective Emergency Maintenance

When servicing requires repair or replacement of materials above and beyond normal preventative maintenance, all repairs and replacements shall be approved in writing by Archie Alexander prior to commencement of work. The contractor shall bid on the Exhibit A Bid Pricing form. Labor rates (prevailing wage) which will be used to perform all emergency repair work.

7-6 Scheduling of Work

The Contractor shall submit to King County Metro Transit a schedule of all quarterly inspection and preventative maintenance required under this contract for twelve (12) months following notice to proceed within 30 days of receipt of such notice. With the schedule, the contractor shall provide a checklist and standard forms to be used in a typical inspection.

As a minimum, the contractor shall provide the site representative a copy of his/her checklist and notes before departing the site to reduce the time between inspection and corrective action.

All work shall be scheduled such that any interruption of normal plant/area operation is kept to minimum and all systems should remain functional and in normal operating condition at the end of each workday. Some inspections may need to be performed outside of normal day shift hour (i.e. generators in the bus tunnel). All inspections shall be scheduled at least twenty-four (24) hours in advance with a site representative.

7-7 Subcontracting

This contract shall not be subcontracted in whole or in part, or assigned by the Contractor without prior written consent of King County Metro Transit.

7-8 Site Inspection

Site inspections can be arranged by contacting Archie Alexander at 263-6580.

7-9 Quality Assurance

At the start of the contract, the Contractor shall establish an information system, which shall include a file for each unit documenting basic information about the unit, and providing a means to document and track preventative and corrective maintenance history. All unit history records are to be turned over to King County at the conclusion of the contract.

7-10 Prevailing Wage

Prevailing wage will be a part of this contract.

Prevailing wage rates are listed at the following web site.

<http://www.lni.wa.gov/TradesLicensing/PrevWage/WageRates/default.asp>

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BID OPENING LABEL

Complete the form below (or a reasonable facsimile thereof) and affix to the exterior lower left hand corner of the submission package.

URGENT – SEALED BID ENCLOSED Do Not Delay – Deliver Immediately	
URGENT	 King County King County Procurement & Contract Services Section Exchange Building, 8 th Floor 821 2nd Ave., EXC-FI-0862 Seattle, WA 98104-1598
	Bid No. 05-032 MM
	Bid Title Emergency Generator Maintenance
	Due Date Vendor
URGENT	